

REMARKS

This is in response to the Office Action that was mailed on December 10, 2009. An RCE is being filed along with this amendment. Claims 1, 3-11, 13-20, 22, 25, 28-31, and 33-39 were pending in that action and all claims were rejected. With the present response, claims 1, 5, 13-14, 20, 22, 31, 33-34, and 36 are amended, claims 3-4, 29-30, and 38-39 are cancelled, and the remaining claims are unchanged. Consideration and allowance of all pending claims are respectfully solicited in light of the following comments.

35 USC §112 Rejections

On page 2 of the Office Action, the Examiner rejected claim 20 under 35 USC §112. In particular, the Examiner stated that the limitation of “an RF reader on the specific truck” should instead be “an RF reader at the specific truck.” The claim has been amended as the Examiner suggested. The Examiner also rejected claim 38 under 35 USC §112. With the present response, claim 38 has been cancelled. Accordingly, Applicant respectfully contends that at least as amended that all claims satisfy the requirements of 35 USC §112 and respectfully requests that the rejections be withdrawn.

35 USC §103 Rejections

On pages 3-35 of the Office Action, the Examiner rejected all of the claims under 35 USC §103 as being obvious. For at least the reasons discussed below, Applicant respectfully contends that the claims are not anticipated by or obvious in view of the cited references. Applicant therefore respectfully contends that the claims are patentable. Applicant respectfully requests that the Examiner withdraw the rejections and allow the claims.

Claim 1:

Claim 1 has been amended to include the limitations previously recited in its dependent claims 3 and 4. Generally speaking, the former claim 3 and 4 limitations recite adding information about the item to an RF tag on a pallet and adding date and time information to an RF tag on the item that indicates when the item was put on the pallet. An illustrative embodiment of the features is described for example on page 21, lines 7-24 of Applicant’s specification.

On page 8 of the Office Action, the Examiner stated that the claimed writing of information to a tag on an item is disclosed by Swan U.S. Pat. No. 6,901,304 (hereinafter “Swan”) column 14, lines 19-23. Applicant respectfully disagrees.

The cited section of Swan states that “particular applications may require writing data to an item tag at some stage where the tag is sensed. The system can write and read such tag data at any site.” Swan never however states what information is written to an item tag. It certainly does not disclose the date and time information recited in amended claim 1. Swan similarly does not provide and suggestion to include such information.

Also on page 8 of the Office Action, the Examiner stated that the claimed adding of information about the item to an RF tag on a pallet is disclosed by Swan column 4, lines 19-27. Applicant again respectfully disagrees. The cited section arguably discloses placing a tag on a pallet. Swan never however teaches or suggests that its tag on its pallet includes any information about an item on the pallet. Instead, as is described for instance in column 3, lines 63-67 of Swan, its pallet tag is used in tracking items. It is not used for storing information about items.

For at least the reasons discussed above, Applicant respectfully contends that claim 1 is patentable over the cited references. Applicant respectfully requests that the rejection be withdrawn and that the claim be allowed.

Claim 13:

Claim 13 has been amended to recite that the information related to the storage of the item that is added to the item tag includes temperature and shock information. The amendment is supported for example on page 22, lines 19-27 of the specification.

On page 15 of the Office Action, the Examiner states that the claimed storage information is disclosed by Swan column 14, lines 19-23. Applicant respectfully disagrees. The cited section of Swan only states that information may be written to a tag. It does not give any details of what information that may be. Swan does not state that it is storage information. Additionally, as currently amended, the claim recites the specific storage information of temperature and shock information. Neither Swan nor any of the other cited references teaches or suggests adding such information to an item tag. Accordingly, Applicant respectfully contends that claim 13 is patentable over the cited references and respectfully requests that the claim be allowed.

Claim 14:

Generally speaking, claim 14 previously recited preventing a moving device from moving if an item not on the list of items is placed on the moving device. The claim has been further amended to recite that a manual override function is provided to allow the moving device to move and that a notation is added if the override function is utilized. An illustrative embodiment of such a feature is described on page 33, lines 7-18 of Applicant's specification.

On page 15 of the Office Action, the Examiner stated that the former claim 14 limitations were disclosed by Swartz U.S. Pat. No. 6,837,436 (hereinafter "Swartz") column 40, lines 13-34. That section discloses a method in which a customer is sent a message if he scans an item not on his list. Swartz never discloses preventing the movement of any device upon scanning an item not on the list. Swartz certainly does not disclose providing a manual override in such a situation and then adding a notation that the override was used. Accordingly, Applicant respectfully contends that at least as amended that the claim is patentable over the cited references. Applicant respectfully requests that the rejection be withdrawn and that the claim be allowed.

Claim 18:

Claim 18 recites in part "returning to the list after a predetermined period of time." An illustrative example of such an embodiment is described for instance on page 28, lines 28-30 of Applicant's specification.

On page 18 of the Office Action, the Examiner seems to state that the cited references do not disclose such a limitation. The Examiner however stated that it would have been obvious to modify the cited references to include such a limitation "with the motivation to keep a shopper focused on the purposes of their trip."

Applicant would like to point out that MPEP 2142 states that "[t]he examiner bears the initial burden of **factually supporting** any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness" (emphasis added). In rejecting the claim, the Examiner has not provided any factually supported reasoning for why it would be obvious to modify the references in order "to keep a shopper focused on the purposes of their trip." The Examiner just seems to have thought up of a reason of why Applicant's claimed feature might be useful and then stated

that it would be obvious to modify the cited references to provide that benefit. The Examiner's reasoning is not factually supported. Accordingly, Applicant respectfully contends that the Examiner has not established a prima facie case of obviousness and that the rejection is therefore improper. Applicant respectfully requests that the Examiner withdraw the rejection and allow the claim.

Claim 22:

Claim 22 has been amended to include the limitations previously recited in its dependent claims 29-30. Amended claim 22 recites in part that the picklist includes an information area having instructions indicating a specific arrangement required for placement of items on the pallet and that the specific arrangement includes arranging the items on the pallet to obtain a correct weight balance. An illustrative embodiment of such a feature is described for instance on page 27, line 14 to page 28, line 6 of Applicant's specification that describes a situation in which an LD-3 aircraft pallet is used.

On page 27 of the Office Action, the Examiner stated that the claimed feature is disclosed by column 2, lines 59-67 of Swartz. Applicant respectfully disagrees. The cited section only discloses that delivery instructions and packing requests may be provided. The cited section does not state that the packing requests include an instruction to obtain a correct weight balance as is recited in the claim. Additionally, Applicant does not believe that it would be obvious to modify the cited reference to include such a limitation. The cited reference is directed towards grocery shopping. For instance, Swartz column 2, line 64 mentions "food stamps." In such a context, it seems unreasonable to contend that Swartz suggests a correct weight balance for the groceries obtained by using the food stamps. It seems unlikely that a correct weight balance would be needed or would provide any benefit. Accordingly, Applicant respectfully contends that it would not be obvious to modify Swartz to include such a weight balance. Applicant therefore respectfully contends that the claim is patentable over the cited references and respectfully requests that the rejection be withdrawn.

Claims 5-11, 15-17, 19-20, 25, 28, 31, and 33-37:

Claims 5-11, 15-17, 19-20, 25, 28, 31, and 33-37 are dependent claims. Applicant respectfully contends that the claims are patentable at least based on their dependencies upon the

patentable independent claims discussed above. Additionally, Applicant would like to highlight that in light of the amendments to the independent claims, that each of claims 5-11, 15-17, 19-20, 25, 28, 31, and 33-37 now recites a new combination of limitations that has not been previously considered by the Examiner. Applicant respectfully contends that these new combinations of limitations are not disclosed or suggested by the cited references and that the claims are therefore also patentable based on their own merits. Applicant respectfully requests that the rejections be withdrawn and that the claims be allowed.

Conclusion

It is respectfully submitted that all claims are now in condition for allowance. Accordingly, consideration and allowance of all pending claims are respectfully solicited. Applicant also respectfully requests that in the event that the Examiner does not find the independent claims patentable, that the Examiner consider allowance of one or more of the dependent claims. The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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